S.B.Criminal Misc. Petition No. 912/2004
(Vinod Bhandari Vs. State of Rajasthan & Anr.)

Date of order : 11.07.2006

HON'BLE MR.H.R.PANWAR,J.

Mr. Narendra Singh for the petitioner.
Mr. Ashok Upadhyay, Public Prosecutor.
Mr. M.L.Khatri for the non-petitioner No.2.

By the instant criminal misc. petition, the petitioner complainant has assailed the order dated 18.8.2004 passed by Judicial Magistrate No.4, Jodhpur (for short 'the trial court' hereinafter) in Complaint Case No.13/2004, whereby the trial court allowed the application filed by the accused non-petitioner No.2 dated 15.10.2003 seeking setting aside of the order dated 19.4.2003 whereby the trial court took the cognizance of the offence and issued the process against the non-petitioner No.2.

After passing the order dated 19.4.2003, the criminal court has no jurisdiction to review the order. This controversy came to be considered by Hon'ble Supreme Court in a very recent decision in Adalat Prasad Vs. Rooplal Jindal and Ors., JT 2004 (7) SC, 243, wherein Hon'ble Supreme Court held that Criminal Procedure Code does not contemplate a review of an

order which has been followed in number of cases by the Apex Court. In the circumstances therefore, the order impugned is per se illegal, erroneous and deserves to be set aside.

Consequently, the misc. petition is allowed. The order impugned dated 18.8.2004 is set aide. The record of the trial court be returned forthwith.

(H.R.PANWAR), J.

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